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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,880

11/13/2006

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EXAMINER

PICKETT, JOHN G

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

02/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,880	Applicant(s) MICHELSON ET AL.	
	Examiner J. Gregory Pickett	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/11/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

1. The Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to 01 June 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the “material to examination” or “in accordance with § 1.56(a)” language, or both, will be accepted as acknowledging the applicant’s duty to disclose information “material to patentability” as defined in 37 CFR 1.56. Applicants are advised that, notwithstanding the preceding waiver, an applicant who has not disclosed information that is material to patentability as defined in 37 CFR 1.56, because it was believed that the information was not “material to the examination,” should disclose such information in order to discharge the applicant’s duty of disclosure as required by 37 CFR 1.56, and should file a supplemental oath or declaration acknowledging that duty of disclosure.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "said male connector" in line 1. There is insufficient antecedent basis for this limitation in the claim or its chain of dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5-7, 10, and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nichols (US 5,609,255).

1: Nichols discloses a kit (Figure 4) comprising a mop head 20/28, a plurality of separate handle sections 14A/14B, and a container 40 being shaped to define an interior cavity (when rolled, Col. 5:54-59) dimensioned to contain at least a portion of the mop head and handle sections.

2, 5: Nichols discloses a strip sponge mop head (Col. 3:17-25).

6, 7: Nichols discloses a first and second section 14B with third section 14A arranged as claimed.

10: Nichols discloses the claimed male-female arrangement.

16: Nichols discloses a mop comprising a sponge mop head 20/28, and a plurality of separate handle sections 14A/14B joined as claimed (Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 3, 4, 8, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols (US 5,609,255).

3, 4: Official Notice is taken that butterfly mop heads and roller mop heads were well known in the art to be equivalents of sponge mop heads. Accordingly, it would have been obvious to one of ordinary skill in the art to substitute a roller or butterfly mop head for the sponge mop head of Nichols. An express suggestion to substitute one

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equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

Applicant, of course, has the right to challenge this Official Notice in response to this decision and demand production of evidence in support thereof, provided such challenge is accompanied by adequate information or argument that, on its face, creates a reasonable doubt regarding the circumstances justifying the Official Notice. See *In Re Boon*, 439 F.2d 724, 169 USPQ 231, 234 (CCPA 1971). To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241.

8: Nichols, as applied to claim 7 above, discloses the claimed invention except for the express disclosure of more than three handle sections. To modify the device of Nichols with additional handle sections would entail a mere duplication of parts since each element performs the same function with no unexpected results, and would have been obvious to one of ordinary skill in the art in order to provide for a longer handle. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

9: Nichols, as applied to claim 6 above, discloses the claimed invention except for the handle being of a particular material and size. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the handle of Nichols from a steel tubing in order to provide a strong handle. It has been held to be

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within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to the size, it has been held that, where the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than a prior art device, the claimed device is not patentably distinct from the prior art device. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984).

12: Nichols, as applied to claim 1 above, discloses the claimed invention except for the specific width of the container. It has been held that, where the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than a prior art device, the claimed device is not patentably distinct from the prior art device. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984).

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols (US 5,609,255), as applied to claim 8 above, and further in view of Longo (US 5,876,147).

As best determined, Nichols, as applied to claim 8 above, discloses the claimed invention except for the connection type. However, Longo teaches the claimed

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connection type for the connection of tubes in a telescoping manner. To modify the connection of Nichols with the connection of Longo would have been obvious to one of ordinary skill in the art in order to enable telescoping of the handle.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. (US 2,827,318) in view of Dory (US 2,639,454).

White discloses a broom kit with a broom head 28 and a plurality of separate handles 12/13 adapted to be joined as claimed. White merely lacks the container. However, Dory teaches a container 10 for compact storage of a break-down tool, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the broom of White in a container as taught by Dory.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over White-Dory as applied to claim 13 above, and further in view of Longo (US 5,876,147).

Claim 14 provides for details of the connecting means and therefore does not invoke the provisions of 112 6th paragraph.

White-Dory, as applied to claim 13 above, discloses the claimed invention except for the connecting means. However, Longo teaches the claimed connection means for the connection of tubes in a telescoping manner. To modify the connection of White-Dory with the connection of Longo would have been obvious to one of ordinary skill in the art in order to enable telescoping of the handle.

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8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. (US 2,827,318) in view of Petner (US 5,839,145).

White discloses a broom comprising a broom head 28 and a plurality of separate handle section 12/13 joined together. White does not expressly disclose an angled broom head. However, as evidenced by Petner, angled broom heads were well known in the art and the substitution of the angled head of Petner for the straight head of White would have been obvious to one of ordinary skill in the art. An express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728